BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

WILMA L. MCKINZIE)
Claimant)
VS.)
) Docket No. 241,689
MIDWEST REGIONAL CREDIT UNION)
Respondent	,
AND)
)
CUNA MUTUAL GROUP)
Insurance Carrier)

ORDER

Respondent and its insurance carrier appealed the July 28, 2000 Award entered by Administrative Law Judge Julie A. N. Sample. The Board heard oral argument on January 17, 2001.

APPEARANCES

Mark E. Kolich of Kansas City, Kansas, appeared for claimant. James M. McVay of Great Bend, Kansas, appeared for respondent and its insurance carrier.

RECORD AND STIPULATIONS

The record considered by the Board and the parties' stipulations are listed in the Award.

Issues

This is a claim for an October 30, 1998 accident and alleged injuries to the knee and back. In the July 28, 2000 Award, Judge Sample found that claimant injured herself as alleged and awarded claimant permanent partial general disability benefits for a 13½ percent whole body functional impairment.

Respondent and its insurance carrier appealed the Award and contend that claimant failed to prove that she injured herself while working for respondent. Claimant alleged that she injured herself when the chair in which she was sitting suddenly lowered and caused

her to hit her knee on the floor. But respondent and its insurance carrier contend that the chair did not drop as alleged and, therefore, claimant did not injure herself as alleged. That is the only issue before the Board on this appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record and considering the parties' arguments, the Board concludes that the July 28, 2000 Award should be affirmed. The Board adopts the findings and conclusions made by Judge Sample. As pointed out by the Judge, this claim hinges upon claimant's credibility. Giving some deference to the Judge's determination, the Board also finds claimant to be a credible witness. Therefore, the Board finds that claimant sustained personal injury by accident arising out of and in the course of employment with respondent, and that she is entitled to receive the benefits that the Judge awarded.

AWARD

WHEREFORE, the Board affirms the July 28, 2000 Award.		
IT IS SO ORDERED.		
Dated this day of January 2001.		
BO	ARD MEMBER	
ВО	ARD MEMBER	
BO	ARD MEMBER	

c: Mark E. Kolich, Kansas City, KS James M. McVay, Great Bend, KS Julie A. N. Sample, Administrative Law Judge Philip S. Harness, Director